

Decision 83 05 101 MAY 18 1983

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of Circle C Truck Brokerage, Inc., )  
a corporation, pursuant to )  
Section 1063 of the Public )  
Utilities Code, for a Certificate )  
of Public Convenience and )  
Necessity to operate as a highway )  
common carrier. )  
\_\_\_\_\_ )

Application 83-01-07  
(Filed January 6, 1983)

O P I N I O N

Applicant Circle C Truck Brokerage, Inc. is an Oregon corporation with a copy of its Articles of Incorporation and its certificate of qualification to do business in California attached to the application. Its executive office is in Malin, Oregon; and its principal office in California is in Fremont.

Applicant has been engaged in the business of motor carriage and brokerage of exempt commodities in interstate commerce between points in California, Arizona, Oregon, Nevada, and Washington. Applicant is in the process of applying to the Interstate Commerce Commission for authority to transport interstate freight between points in the states presently served.

Applicant has requested a certificate of public convenience and necessity under Public Utilities (PU) Code § 1063, authorizing it to operate as a highway common carrier of general commodities, with certain exemptions, between all points in the State of California.

Applicant will provide an on-call service, seven days a week, for the pickup, transportation, and delivery of California freight. Competitive and through rates will be established on all routes and between all points in California. Applicant operates six tractor-trailer combinations. Applicant's income statement dated August 31, 1982 shows a gross profit of \$103,537.79 for the prior 12 months and \$99,717.65 operating expenses.

It is alleged that applicant often has trucks moving empty between points in California due to the lack of intrastate authority. Applicant has listed the names of five large shippers who have indicated that they prefer applicant's service for transportation within California.

Applicant states that there is no affiliation with any California shippers or other California carriers, except that James Cheyne, who is applicant's secretary/treasurer and a stockholder and director of applicant, is affiliated with J. C. Cheyne Company, South San Francisco, a wholesaler of agricultural commodities. It is Commission policy in issuing highway common carrier operating authority where it appears there is an affiliation between the carrier and a potential shipper by reason of common ownership, management, or control to specify by means of an alter ego restriction that not less than the carrier's published tariff rates be paid to subhaulers. Therefore, an alter ego restriction should be placed in the certificate to be issued to applicant in this proceeding.

Notice of the filing of this application was published in the Commission's Daily Calendar on January 10, 1983. No protests or requests for hearing have been received.

Findings of Fact

1. Applicant possesses the experience, equipment, personnel, and financial resources to institute and maintain the proposed service.
2. Public convenience and necessity require that the application be granted.
3. A public hearing is not necessary.
4. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

5. An alter ego restriction should be placed in the certificate granted to applicant stating that whenever Circle C Truck Brokerage, Inc. engages other carriers for the transportation of property of James C. Cheyne or J. C. Cheyne Company, or customers or suppliers of said individual or company, Circle C Truck Brokerage, Inc. shall not pay such other carriers' rates and charges less than the rates and charges published in tariffs filed with this Commission by Circle C Truck Brokerage, Inc.

Conclusion of Law

The application should be granted as set forth in the ensuing order.

Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Circle C Truck Brokerage, Inc., a corporation, authorizing it to operate as a highway common carrier, as defined in PU Code § 213, between the points listed in Appendix A.

2. Applicant shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs within 120 days after this order is effective.
- c. State in its tariffs when service will start; allow at least 10 days' notice to the Commission; and make tariffs effective 10 or more days after this order is effective.

- d. Comply with General Orders Series 80, 100, 123, and 147, and the California Highway Patrol safety rules.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.
- f. Comply with General Order Series 84 (collect-on-delivery shipments). If applicant elects not to transport collect-on-delivery shipments, it shall file the tariff provisions required by that General Order.

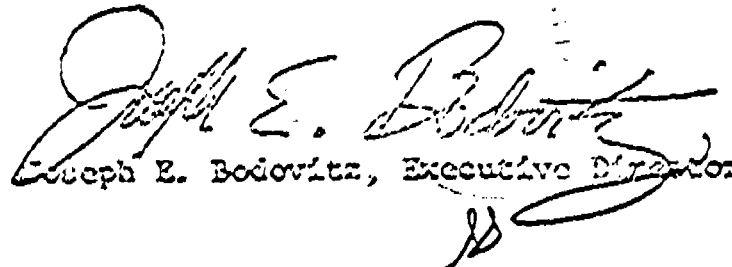
This order becomes effective 30 days from today.

Dated MAY 18 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President

VICTOR CALVO  
PRISCILLA C. GREW  
DONALD VIAL  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

  
Joseph E. Bodovitz, Executive Director

Circle C Truck Brokerage, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a highway common carrier as defined in Public Utilities Code Section 213 for the transportation of general commodities as follows:

Between all points and places in the State of California.

Except that under the authority granted, carrier shall not transport any shipments of:

1. Used household goods and personal effects, office, store, and institution furniture and fixtures.
2. Automobiles, trucks, and buses, new and used.
3. Ordinary livestock.
4. Liquids, compressed gases, commodities in semiplastic form, and commodities in suspension in liquids in bulk in any tank truck or tank trailer.
5. Mining, building, paving, and construction materials, except cement or liquids, in bulk in dump truck equipment.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Portland or similar cements, either alone or in combination with lime or powdered limestone, in bulk or in packages, when loaded substantially to capacity.

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8. Trailer coaches and campers, including integral parts and contents when contents are within the trailer coach or camper.
9. Explosives subject to U.S. Department of Transportation regulations governing the transportation of hazardous materials.
10. Fresh fruits, nuts, vegetables, logs, and unprocessed agricultural commodities.
11. Any commodity, the transportation or handling of which, because of width, length, height, weight, shape, or size, requires special authority from a governmental agency regulating the use of highways, roads, or streets.
12. Transportation of liquid or semisolid waste, or any other bulk liquid commodity in any vacuum-type tank truck or trailer.

In performing the service authorized, carrier may make use of any and all public streets, roads, highways, and bridges necessary or convenient for the performance of this service.

Restriction - Whenever Circle C Truck Brokerage, Inc. engages other carriers for the transportation of property of James Cheyne or J. C. Cheyne Company, or customers or suppliers of said individual or company, Circle C Truck Brokerage, Inc. shall not pay such other carriers' rates and charges less than the rates and charges published in tariffs filed with this Commission by Circle C Truck Brokerage, Inc.

(END OF APPENDIX A)

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Findings of Fact

1. Applicant possesses the experience, equipment, personnel, and financial resources to institute and maintain the proposed service.
2. Public convenience and necessity require that the application be granted.
3. A public hearing is not necessary.
4. We find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.